



David B. Cohen  
Mayor

## CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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Public Hearing Date: March 11, 2008  
Land Use Action Date: May 6, 2008  
Board of Aldermen Action Date: May 19, 2008  
90-Day Expiration Date: June 9, 2008

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development  
Candace Havens, Chief Planner *CH*  
Alexandra Ananth, Planner

DATE: March 7, 2008

SUBJECT: **Petition #65-08 of Giovanna Forte** for a SPECIAL PERMIT/SITE PLAN APPROVALS for a rear lot subdivision with reduced frontage in order to construct a new single-family dwelling, including the conversion of an existing two-family dwelling to one-family and demolition of an existing detached two-car garage and shed at 48 CHERRY PLACE, Ward 3, WEST NEWTON, on land known as Sec 33, Blk 36, Lot 4 and part of lot 5, containing approx 22,387 sf of land in a district zoned SINGLE RESIDENCE 3.

CC: Mayor David B. Cohen

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis, which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

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## EXECUTIVE SUMMARY

The petitioner seeks to subdivide land in order to create a rear lot for a new 2½-story single-family residence behind an existing house. The petitioner proposed to convert the existing nonconforming two-family house located on the front lot, to a conforming single-family dwelling with a new two-car garage and living space above. Except for reduced setbacks in front the structures, both lots otherwise appear to meet all applicable requirements.

Approval of the new rear lot will eliminate a nonconforming use and preserve the existing 1870s structure at the front of the lot. The subdivision of land also may avoid the construction of a very large by-right single-family dwelling on the amassed parcel, which would not be desirable or in keeping with the surrounding neighborhood. The proposed lot sizes are in keeping with other lots in the neighborhood.

The Planning Department does have some concerns with the scale of the two residences within the neighborhood context and recommends the petitioner reduce the height of the proposed structure on the rear lot. Although the proposed new structure is set back approximately 105 feet from Cherry Place and should not significantly impact that streetscape, the new residence will have a greater impact on the smaller ranch and cape-style residences on Westland Terrace to the rear. One of the criteria that the Board must consider regarding the rear lot special permit application is ***“whether the proposed structure exceeds the respective average height of abutting residential buildings.”*** As proposed, the ridge elevation of the rear structure is approximately 15 ft. higher than the 1¾ story cape located only 36 ft. behind the proposed residence and exceeds the height of all of the abutting residential structures. Although the Planning Department has no concerns with the location or use of the proposed new residence, the department recommends that the petitioner reduce the height of the proposed structure on the rear lot to be more in keeping with the surrounding neighborhood.

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### I. SIGNIFICANT ISSUES FOR CONSIDERATION

The petitioner's request for a new rear lot is subject to the criteria set out in Section 30-15(r)(2)c(ii) in addition to the special permit/site plan approval criteria. Thus, when considering this request, the Board should consider whether:

- the proposed structure exceeds the respective average height of abutting residential buildings and structures;
- the scale of the proposed structure is compatible with adjacent structures and the character of the neighborhood;
- topographical changes have been minimized so they do not adversely affect existing or proposed structures on-site or nearby, including structures used for accessory purposes;
- proposed landscaping offers appropriate screening;
- vehicular access for vehicles, including for public safety equipment, is adequate and whether a common driveway should be included;
- any historic or conservation benefit is provided or advanced by the proposed development;

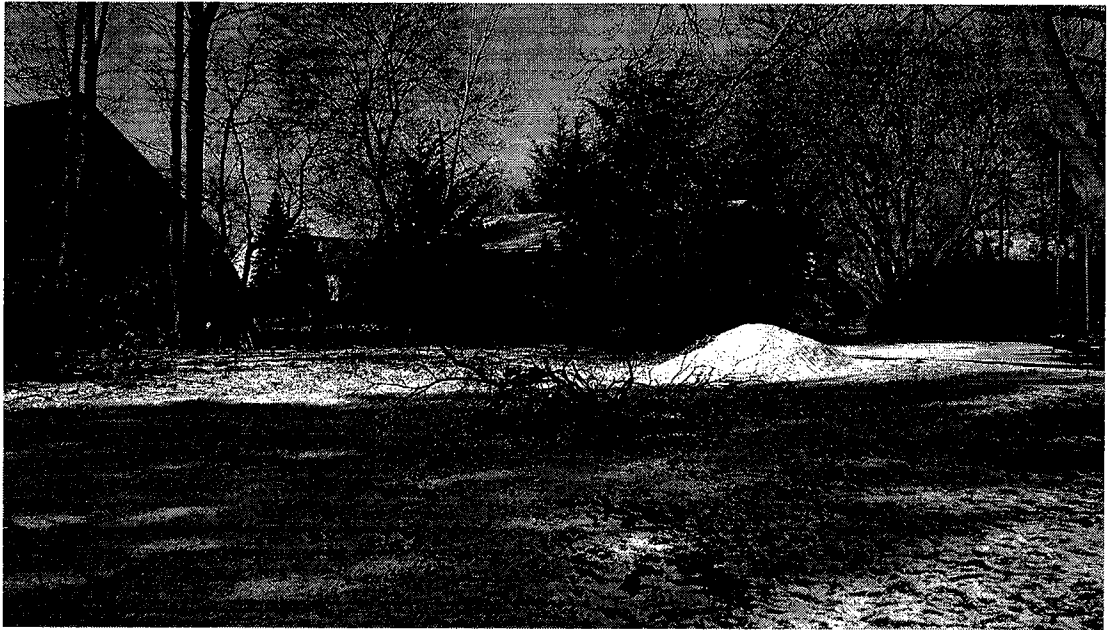
- the location of structures used for accessory purposes or mechanical equipment on the new rear lot or on the abutting lots will negatively impact either the proposed rear lot development or abutters' property;
- the siting of the structure complements the abutting residential buildings and structures; and
- the neighbors will be adversely affected by proposed lighting.

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

- A. Background. The subject property was enlarged in 2006 by the purchase of a 7,897 sq. ft. portion of the abutting property at 38 Cherry Place to the east, creating a parcel of 22,387 square feet of land. The applicant now seeks to subdivide the expanded lot by creating a new rear lot for a new single-family dwelling behind the existing two-family structure near the street.
- B. Site Characteristics. The site is accessed off of Cherry Place in West Newton and contains a nonconforming 2-story, two-family residence as well as a detached garage and accessory shed structure. A bituminous driveway located along the west lot line expands to a large paved area behind the existing two-family structure and leads to the existing garage. The rear portion of the existing lot is mostly open and level. There are a number of mature maple trees on the lot.



*Existing two-family structure*



*Area proposed for new rear lot*

- C. Neighborhood and Zoning. The subject property is located in West Newton in a residential neighborhood zoned Single Residence 3. The site is the largest lot in the immediate area and almost double the neighborhood average. Although most of the residences in the area are single-family houses, there are a few two-family residences including the subject property. The neighborhood consists primarily of modestly sized dwellings, although there are a few large houses in the surrounding neighborhood. The houses on Cherry Place generally can be characterized as old or vernacular style residences and generally date from the 1880s to the early 1900s. Most have vinyl siding and are two stories high. The streets behind the subject property, Westland and Manhattan Terrace, consist of modest 1950s ranch or cape-style residences. The property to the east at 38 Cherry Place is listed as mixed-use in the City's assessing database, presumably because it is believed that a landscape business exists on this property. Many of the lots along Cherry Place have detached garages, some of which are two stories.

### III. PROJECT DESCRIPTION AND ANALYSIS

- A. Land Use . There is no net increase in density with the subject proposal and both proposed lots meet the dimensional requirements for a new front and rear lot. The Planning Department believes that development of the lots with the proposed residences is in keeping with the neighborhood and should have no adverse affects on its surroundings.
- B. Buildings and Site Design. The existing two-family residence at the front of the site is an 1870s vernacular with vinyl siding. The petitioner proposes to convert the structure to a single-family residence and to add a two-car garage with master suite above it. As part of the remodel, he also proposes to replace the vinyl siding with clapboard. Site changes include razing the existing driveway along the western property line and moving the curb cut and driveway towards the center of

the lot leading directly into the new garage addition. This should have a positive impact on the western abutter.

Because the addition to the existing house is only 1½ stories high, the ridge elevation or height of the existing structure will decrease from 97.2 to 95.5 feet or an overall height of 25.3 ft. The addition will add approximately 1,600 square feet to the residence, including the new garage. The remodeled residence will be almost twice the size of the average house in the immediate neighborhood with 3,344 square feet in area and an FAR of .33 compared to the neighborhood average FAR of 0.18 (*ATTACHMENT "A" – 2007 Neighborhood Comparison Chart*).

The petitioner proposes to add some fill around the new rear lot residence to accommodate the new structure, although the grade change will not exceed three feet. The new residence will be a 2½-story Colonial of approximately 2,900 square feet with a basement, attached garage and an FAR of 0.239 (0.24 is allowed). Although the petitioner is proposing to add some fill around the proposed new residence, there is no significant grade change between the proposed structure and adjacent residences.

The proposed new residence is quite tall at 30 feet and is significantly taller than surrounding homes, including the existing structure on the front lot and all immediate abutters. The house is well situated away from most other abutters with the exception of the rear abutter at #17 Westland Terrace from which there is only 36 feet between the two structures. As proposed, the ridge elevation is approximately 15 feet higher than that of the rear abutter. ***The Planning Department strongly encourages the petitioner to consider reducing the height to one that is more compatible with the heights of abutting structures.***

- C. Parking and Circulation. Plans show that each residence has its own conforming driveway off of Cherry Place. Access to the rear lot is proposed via a permanent 20-foot-wide easement over the front lot on the eastern lot line. A new driveway near the center of the lot leading directly into the new garage will serve the existing home. The petitioner is proposing arborvitae around most of the site including the new driveway to the rear lot. Although most of the existing trees on the lot will remain, the petitioner proposes to remove one 32-inch diameter maple tree to create the driveway leading to the rear lot. Both residences will have conforming two-car garages. The Planning Department has no concerns regarding parking and circulation, but favors access to both lots from a single, shared driveway.
- D. Screening and Lighting. As noted, the petitioner proposes removal of one 32" maple, but also proposes to relocate two 8-inch pines and to plant a row of arborvitae around a good portion of the site. Although not particularly tall (4-5 feet at installation), the arborvitae will grow quickly and will act as a dense screen between the existing residence at 38 Cherry Place and the new driveway, and will act as a buffer between the two houses on the subject property. The two 30-inch maple trees in front of the existing residence will remain. It appears there are some tall oak trees on the rear lot line and the addition of four white pine trees

will provide additional screening, which will further lessen the stature of the taller residence.

The petitioner has not submitted any information regarding lighting of the site or structures. While it is assumed all lighting would be residential in scale, this should be clarified at the public hearing.

#### IV. COMPREHENSIVE PLAN

The City's newly approved *Newton Comprehensive Plan* states that "development is to be guided to reflect the character held or sought by existing residential neighborhoods, protecting the qualities of that which exists." The Planning Department feels the proposed subdivision will add an additional single-family house in keeping with the neighborhood without significantly impacting the streetscape. Furthermore approval of a new rear lot will eliminate a nonconforming use and allow for the preservation of the existing 1870s structure at the front of the lot.

#### V. TECHNICAL REVIEW

- A. Technical Considerations, Sec. 30-15(r). Section 30-15(r)(2)a) provides that the proposed front lot (Lot 1A) is subject to dimensional controls applicable per Section 30-15, Table 1, Density and Dimensional Controls in Residence Districts and for Residential Uses for lots created after December 7, 1953. The following table compares the proposed new front lot to the technical requirements in a Single Residence 3 District:

Single Residence 3	Pre-1953 Requirements	Post-1953 Requirements	Proposed Front Lot 1A (existing structure w/ addition)
Minimum lot size	7,000 sq. ft.	10,000 sq. ft.	10,267 sq. ft.
Frontage	70 ft.	80 ft.	129.3 ft.
Setbacks			
Front	25 ft.	30 ft.	<b>18.2 ft. (existing)</b>
Side	7.5 ft.	10 ft.	14 ft.
Rear	15 ft.	15 ft.	18 ft.
Building height	30 ft.	30 ft.	25.6 ft.
Max. # of stories	2.5 stories	2.5 stories	2 stories
Max. building lot coverage	30%	30%	16.6%
FAR	.35	.35	.33
Open Space	50%	50%	69.2%
Build Factor	20	20	16.4

As illustrated above, the new front lot meets Table 1 requirements except for the existing front setback of 18.2 ft. However, the existing setback exceeds the average setback of 17.5 ft. calculated pursuant to Section 30-15(d).

Section 30-15(r), Table 4, Dimensional Controls for Rear Lot Development in Residence Zones establishes the controls applicable to the proposed new rear lot (Lot 2A) in a Single Residence 3 District.

Single Residence 2 Rear Lot	Required	Proposed Rear Lot 2
Minimum lot size	12,000 sq. ft.	12,120 sq. ft.
Frontage	20 ft./80 ft.	20 ft./125.8 ft.
Setbacks		
Front	30 ft.	<b>25.3 ft.</b>
Side	15 ft.	16.5 ft.
Rear	23 ft.	24 ft.
Building height	30 ft.	30 ft.
Max. # of stories	2.5 stories	2.5 stories
Max. building lot coverage	25%	12.2%
FAR	.24	.24
Open Space	50%	75.8%
Build Factor	20	17.7

As shown above, the proposed single-family dwelling on the rear lot appears to meet all of the dimensional requirements for a rear lot development except for the front setback requirement of 30 feet. However, a front setback of 25 feet is allowed by special permit. *(In the case of rear lots, the rear property line of the lot fronting on the street is the front property line of the rear lot. Thus, the front setback for the rear lot is measured from the property line that separates the two lots.)*

B. Parking Requirements (Section 30-19). Both lots meet all of the parking requirements.

C. Other Reviews.

1. Engineering Division. The Associate City Engineer has reviewed plans and has offered a number of comments in his attached memorandum dated March 6, 2008 (**SEE ATTACHMENT "B"**).

2. Historical Commission. The Newton Historical Commission placed a one-year demolition delay on the existing residence at the front of the site, which has since expired. No further review is required.

3. Fire Department. Assistant Chief Proia recommends maintaining a 14-foot wide driveway at all times and requests no trees be planted that would hinder emergency access on the north side of the rear building.

VI. Summary of Zoning Reliefs Requested

Based on the Chief Zoning Code Official's zoning review dated November 20, 2007 (*SEE ATTACHMENT "C"*), the petitioner is seeking relief from or approval through:

- Section 30-15 (r)(2)a) for approval of a rear lot subdivision;
- Section 30-23 for approval of proposed site plan and related alterations and development at both lots;
- Section 30-15 (r)(2)a) Table 4 Fn. 3 & 30-24(d) for approval of special permit to reduce front setback of proposed single-family dwelling on new rear lot (Lot 2A) from 30 ft. to 25.27 ft; and
- Section 30-15 (r)(2) & 30-24(d) for approval of special permit to allow a new rear lot and related alterations and development at both lots.

VII. Summary of Petitioner Responsibilities

At the public hearing the petitioner should be expected to respond to all issues raised in this memorandum by the Planning and Development Department. *In particular, the petitioner should explain its reasoning for exceeding the average height of abutting residences and clarify its intentions for lighting.*

**ATTACHMENTS:**

*ATTACHMENT A: 2007 Neighborhood Comparison Chart*

*ATTACHMENT B: Associate City Engineer Memorandum, March 6, 2008*

*ATTACHMENT C: Zoning Review Memorandum, November 20, 2007*

*ATTACHMENT D: Fire Department Memorandum, February 22, 2008*

*ATTACHMENT E: Proposed Site Plan*

*ATTACHMENT F: Land Use Map*

*ATTACHMENT G: Zoning Map*

**Neighborhood Comparison Chart (Prepared by Planning Department)**

<u>No.</u>	<u>Street</u>	<u>FAR</u>	<u>Interior*</u> <u>(sq.ft.)</u>	<u>Ave Unit</u> <u>Size</u>	<u>Lot Size*</u> <u>(sq.ft.)</u>	<u>Units*</u>	<u>Lot Area</u> <u>per unit</u>	<u>Year</u> <u>Built</u>	<u>Siding</u>	<u>Style</u>	<u>Stories</u>	<u>Ridge</u> <u>Elevation</u>
18	Cherry Place	0.62	7107	7107	11,556	1	11556	1920	brick venee	colonial	2.5	
24	Cherry Place	0.22	2148	1074	9,781	2	4891	1880	brick venee	2-family	2	
30	Cherry Place	0.33	3514	1757	10,780	2	5390	1906	vinyl	2-family	2	100.5
38	Cherry Place	0.17	2037	2037	11,982	1	11982	NA	vinyl	cape	1.75	92.2
48	<b>Cherry Place</b>	<b>0.09</b>	<b>2064</b>	<b>1032</b>	<b>22,388</b>	<b>2</b>	<b>11194</b>	<b>1870</b>	<b>vinyl</b>	<b>2-family</b>	<b>2</b>	<b>97.2</b>
58	Cherry Place	0.09	1417	1417	15,280	1	15280	1885	vinyl	old	2	94.1
62	Cherry Place	0.11	1340	1340	11,784	1	11784	1910	vinyl	old	2	
61	Cherry Place	0.12	1292	1292	10,345	1	10345	1886	vinyl	old	2	
57	Cherry Place	0.13	1561	1561	12,363	1	12363	1832	clapboard	colonial	2	
45	Cherry Place	0.14	1712	1712	12,364	1	12364	1905	vinyl	old	2	
33	Cherry Place	0.10	1302	1302	13,428	1	13428	1880	asbestos sh	colonial	2	
23	Cherry Place	0.12	1554	1554	13,428	1	13428	1885	wood shingl	colonial	2	
16	Westland Terrace	0.12	1208	1208	10,227	1	10227	1952	brick venee	ranch	1	
17	Westland Terrace	0.31	2048	2048	6,636	1	6636	1955	wood shingl	cape	1.75	87.9
20	Manhattan Terrace	0.15	1148	1148	7,809	1	7809	1955	wood shingl	ranch	1	81.5
19	Manhattan Terrace	0.15	1344	1344	9,167	1	9167	1955	vinyl	cape	1.75	
<b>Average</b>		<b>0.18</b>	<b>2,050</b>	<b>1,808</b>	<b>11,832</b>		<b>10,490</b>					<b>92</b>
Proposed Front	1A	0.33	3,344	3344	10,267	1	10,267		clapboard	vernacular	2	96
Proposed Rear	2A	0.24	2,902	2,902	12,120	1	12,120		clapboard	colonial	2	103

CITY OF NEWTON  
ENGINEERING DIVISION

MEMORANDUM

To: Alderman George Mansfield, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – 48 Cherry Place

Date: March 6, 2008

CC: Lou Taverna, PE City Engineer (via email)  
Candice Havens, Chief Planner (via email)  
Linda Finucane, Associate City Clerk (via email)  
Jean Fulkerson, Planner (via email)

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In reference to the above site, I have the following comments for a plan entitled:

*48 Cherry Place  
Newton, MA  
Prepared by: Ralph Bibbo, PLS  
Dated: June 29, 2008*

- **The proposed plans need to be stamped by a Professional Engineer registered in this state.**

Access:

1. Prior to any construction activity, the applicant shall retain a contractor that specializes in Closed Circuit Television (CCTV) inspection. The CCTV shall be done on the City's drainpipe that crosses this property. The inspection shall be witnessed by the Engineering Division. The applicant shall contact the Engineering Division 48 hours in advance to schedule an appointment. At the end of the inspection the video or CD shall be given to the inspector. Furthermore upon completion of the all construction activity a Post – Construction video inspection shall also take place and witnessed as described above.

2. A license agreement will be required for any permanent structures over the City's easement (i.e. driveway, drainage structures, etc...)
3. Should this Special Permit be approved the applicant shall submit a ANR (Approval Not Required) plan to the Board of Survey for the new lot.

Drainage:

1. It is the policy of the DPW that all runoff from new impervious surfaces be infiltrated on-site to the best practicable extent, if on site soils are poor, some sort of infiltration is still required then on overflow connection may be allowed. This proposed project does not provide any infiltration for either lot, and needs to be addressed.
2. An on site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. The proposed drainage system shall be within (20') of the test pit. The proposed drainage system should be 2' above the seasonal high groundwater elevation. The report refers to D type soils but no logs have been submitted.
3. The drainage analysis methodology is acceptable however; there are some errors in the calculation that need to be corrected.
4. The proposed catch basin location and connection into the City's Drain has a reverse flow condition and is unacceptable. Furthermore, a backflow preventer valve or check valve is needed in the outlet of the pipe connecting the proposed catch basin to the City's drain pipe. The proposed location of the drain manhole needs to be adjusted.
5. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and adopted by the homeowner, incorporated into the deeds of the proposed development; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
6. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the homeowners.

Water & Sewer:

1. The proposed sewer and water services are unacceptable; they are only 2-feet off the City's drainpipe. Furthermore, the water and sewer services must be separated horizontally a minimum of 10' in accordance to the DEP requirement. Both of these services shall be a minimum of 10feet from the City drainpipe. It is recommended that both these services be moved off this lot and placed in a utility easement on the lot labeled 1A.
2. Various details are missing for both water and sewer connections.

Overhead Utilities:

- Although not required, the applicant should consider installing both electric telephone, cable TV wires underground.

General:

1. All tree removal shall comply with the City's Tree Ordinance.
2. An approved type of siltation control is needed for the site.
3. Driveway apron detail is missing.
4. Are the dwellings to be serviced by gas, if so the locations of the services need to be indicated so that there are no conflicts with between the proposed utilities.
5. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
6. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
7. The applicant will have to apply for a Building permits with the Department of Inspectional Service prior to any construction.
8. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show

all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*

9. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

# ***Zoning Review Memorandum***

ATTACHMENT C

Dt: November 20, 2007

To: Giovanna Forte, represented by Jason Rosenberg, Esq.

Fr: Juris Alksnitis, Chief Zoning Code Official

Cc: John Lojek, Commissioner of Inspectional Services  
Michael Kruse, Director of Planning and Development

Re: **Rear lot subdivision at 48 Cherry Place**

**Applicant:** Giovanna Forte

**Site:** 48 Cherry Place

**SBL:** Section 33, Block 36, Lots 04 & 05

**Zoning:** Single-Residence 3

**Lot Area:** 33,238 sq. ft. (prior Lots 4+5 – GIS)

Prop. Lot 1A: 10,267 sq. ft. [remaining front lot]

Prop. Lot 2A: 12,120 sq. ft. [new rear lot]

Lot 9A: 11,982 sq. ft. [exist. reduced lot]

Total 34,369 sq. ft. per prop. plan

**Current use:** Two-family

**Prop. use:** 1-fam. front; 1-fam. on rear lot

Background:

Located in West Newton, the subject property was expanded in 2006 by purchase of a 7,897 sq. ft. portion of the abutting property at 38 Cherry Pl. The applicant seeks to subdivide the expanded lot by creating a new rear lot for a new single-family dwelling. The existing non-conforming two-family house near the street would be converted to a single-family house and expanded by a side addition, while the existing garage and shed in the rear would be demolished. The applicant's request is subject to the revised rear lot ordinance adopted by the City in 2004. Board of Aldermen approval is required pursuant to Section 30-15(r) for a rear lot subdivision and related development.

Administrative determinations

1. *Ordinance X-123*, dated December 6, 2004 establishes the applicable requirements within Section 30-15(r) for new rear lot subdivisions and requires a special permit per 30-15(r)(2)a). The following analysis is based upon the submitted plans and information received to date as referenced in Plans and materials reviewed, below.
2. Submitted plans indicate a total lot area 1,031 sq. ft. greater than indicated on the City's GIS system. The surveyor explains the increase in lot area on the "Existing Conditions Plan" as due to an accurate on site survey of the property and notes the methodology used. The larger overall area is key to enabling the proposed rear lot subdivision to achieve the applicable minimum lot areas.
3. The applicant states, and submitted plans indicate that the existing nonconforming two-family dwelling located within the current SR-3 zone will be converted to a conforming use, i.e. a single family dwelling and expanded by a side addition with a garage.

4. *Section 30-15(r)(2)(a)* provides that the proposed remainder front lot (Lot 1A) is subject to dimensional controls applicable to lots created after December 7, 1953 per *Section 30-15, Table 1, Density & Dimensional Controls in Residence Districts and for Residential Uses (Table 1)*. The subject lot meets Table 1 requirements and the existing front setback of 18.21 ft. exceeds the average setback requirement of 17.5 ft., calculated pursuant to *Section 30-15(d)*. In addition, it is noted that the lot at 38 Cherry Pl. reduced in 2006 by sale of 7,897 sq. ft. to 48 Cherry Pl. meets the Table 1 requirements for a lot created after December 7, 1953.
5. *Section 30-15(r), Table A, Development Controls for Rear Lot Development in Residential Zones (Table A)* establishes the controls applicable to the proposed new rear lot (Lot 2A). The subject Lot 2A and proposed single-family dwelling meet Table A requirements, except that the stairway structure from the 2<sup>nd</sup> floor deck above the garage to the rear yard is located approximately 14 ft. from rear lot line, thereby encroaching on rear setback of 23 ft. However, the applicant's attorney has indicated by e-mail communication dated Nov. 19, 2007, that the architectural plans will be revised to remove this stairway.

As the proposed "front" setback to the rear lot line of the lot in front (48 Cherry Pl.) is 25.27 ft., this necessitates a waiver from the 30 ft. requirement by special permit pursuant to *Section 30-15(r), Table A, Footnote 3*. However, it is noted the placement of the dwelling meets *Section 30-15(e)*, which states that on a rear lot no building may be erected nearer than 25 ft. to the rear line of the lot in front. Finally, since the access to the proposed rear lot will be by easement over the front lot rather than over property held in fee, the 20% limitation in Table A, Footnote 1 does not apply to the access easement area.

6. *Section 30-15(r)(2)(c)(ii)* establishes a series of criteria to be considered by the Board of Aldermen in reviewing a new rear lot development. Subparagraph (a) pertaining to height and (i) pertaining to impact of lighting necessitate the provision of data in order for the Board to undertake its review. The applicant has provided height information pertaining to the proposed new dwelling and to the abutting residences. While lighting information has not been provided, the applicant's representative has stated that lighting impact will be "normal for a single family home". The petitioner is also responsible for complying with *Ordinance X-142, Light Ordinance*, as set out in *Sections 20-23 through 20-28* with respect to *Light Pollution* and *Light Trespass*, respectively. It is suggested the applicant provide lighting information to enable the Board to assess such lighting impacts, if any, as may arise from the proposed developments on the front lot and proposed rear lot, respectively, and to demonstrate compliance with the Light Ordinance. This information should be provided not later than filing of the subject petition with the Clerk of the Board of Aldermen.
7. *Section 30-15(r)(2)(c)(ii)(d)* establishes the requirement for landscape screening. The applicant has submitted a proposed landscape plan, which also identifies trees to be removed and replaced. The applicant is responsible for complying with *Sections 20-31 through 20-39, Tree Preservation Ordinance*, to the extent applicable.
8. *Section 30-15(p)* requires new lots created after September 16, 1996 to meet the build factor of 20 established for Single-Residence 3 zones. Proposed lots 1A and 2A meet this requirement, as does the reduced Lot 9A.
9. *Section 30-19(d)(1)* requires 2 parking spaces per unit in a 1F dwelling. Submitted plans indicate the removal of an existing garage serving Lot 1A, and provision of a conforming 2-car garage within the proposed addition

at 48 Cherry Pl. At Lot 2A, a conforming garage is incorporated within the proposed new 1F dwelling providing two conforming parking spaces.

10. *Sections 30-8(b)(7), and 30-19(g)* establish the garage, parking layout, and driveway requirements for 1F and 2F dwellings. Submitted plans meet these requirements.
11. *Section 30-5(b)(4)* requires a special permit whenever existing contours are altered by more than 3 ft. Submitted plans state that existing contours will not be altered by more than 3 ft.
12. *Section 30-15(r)(2)c(ii)(f)* contains the criterion as to whether a project provides a historic public benefit. The Sr. Preservation Planner has indicated that the existing structure at 48 Cherry Pl. was originally built circa 1870 and then substantially altered in the 1890's. As a result, the proposed addition and partial demolition is subject to Section 22-44 and related procedures pertaining to structures over 50 years old. The existing garage, built in the 1980's is not subject to these provisions. The applicant has expressed the intention to meet all applicable historic review requirements and procedures.
13. While no information has been submitted regarding signage, any future signs are subject to the requirements and procedures of *Section 30-20, Signs and other advertising devices*.
14. The proposed landscape plan indicates overlapping stockade and chain link fences along the rear lot line of the proposed new rear lot. The petitioner is responsible for meeting the requirements of *Section 20-40, Regulation of Perimeter Fences*, to the extent applicable to any proposed new fences or fence repairs as part of the subject site improvements.
15. Submitted plans indicate a City of Newton Drain Easement running through the front lot and continuing through the proposed rear lot. The applicant will need to obtain Newton Engineering Division permission for any improvements affecting the Drain Easement.
16. See "Zoning Relief Summary" below.

<i><b>Zoning Relief Summary</b></i>		
<i><b>Ordinance</b></i>		<i><b>Action Required</b></i>
	<b>Buildings</b>	N/A
	N/A	
	<b>Parking</b>	N/A
	N/A	
	<b>Signs</b>	N/A
	N/A	
	<b>Site</b>	
30-15(r)(2)a)	Approval of rear lot subdivision.	X
30-23	Approval of proposed site plan, and related alterations and development at both lots, respectively.	X
	<b>Special Permit</b>	
30-15(r)(2)a), Table A, Fn 3 30-24(d)	Approval of special permit to reduce front setback of proposed 1F dwelling on new rear lot (Lot 2A) from 30ft. to 25.27 ft.	X
30-15(r)(2) 30-24(d)	Approval of special permit to allow a new rear lot and related alterations and development at both lots, respectively.	X

**Plans and materials reviewed:**

- Plan set titled “Four Bedroom Colonial, Lot 3A, Cherry Pl., West Newton, MA, dated 3/20/07, last revised 10/18/07, prepared by John C. Staniunas Associates, Architects, 44 Washington, St., Wellesley, MA 02181, stamped and signed by John C. Staniunas, registered architect, consisting of the following:
  - Sheet A-1 – Elevations
  - Sheet A-2 – Floor Plans
  - Sheet A-3 – Attic Floor Plan
- Memorandum by e-mail from applicant’s attorney Jason Rosenberg, dated November 19, 2007, indicating removal of external stair structure from deck above garage to ground level.
- Plan set titled “Residence Remodeling, 48 Cherry Pl., West Newton, MA”, dated 5/20/05, last revised 3/10/07, prepared by John C. Staniunas Associates, Architects, 44 Washington, St., Wellesley, MA 02181, stamped and signed by John C. Staniunas, registered architect, consisting of the following:
  - Sheet A-1 – Elevations
  - Sheet A-2 – Floor Plans
  - Sheet A-3 – Basement Foundation Plan, last revised 6/10/05
- Plan titled “Plan of Land in Newton, MA Showing Lot 9 & Lot 12 to be Subdivided into Lot 9A and 12A”, dated April 20, 2006, last revised October 18, 2006, prepared by Ralph J. Bibbo, Professional Land Surveyor, 10 Hammer St., Waltham, MA 02453, stamped and signed by Ralph J. Bibbo, Professional Land Surveyor.
- Plan set titled “48 Cherry Place, Newton, MA Showing Proposed New Rear Lot Under Ordinance Nr. X-123, dated December 6, 2004”, prepared by Ralph J. Bibbo, Professional Land Surveyor, 10 Hammer St., Waltham, MA 02453, dated June 29, 2007, stamped and signed by Ralph J. Bibbo, Professional Land Surveyor, consisting of the following:
  - Sheet 1 of 8 – Title Sheet
  - Sheet 2 of 8 – Plan of Land in Newton, MA, Existing Conditions Plan.
  - Sheet 3 of 8 – Plan of Land in Newton, MA, Proposed Site Plan.
  - Sheet 4 of 8 – Plan of Land, Newton, MA, Zoning Information.
  - Sheet 5 of 8 – Plan of Land, Newton, MA, Showing Build Factors, Driveway Detail and Average Front Setbacks
  - Sheet 6 of 8 – Plan of Land in Newton, MA, Showing Proposed Landscaping & Tree Removal/Replacement.
  - Sheet 7 of 8 – Plan of Land in Newton, MA, Proposed Lotting Plan Showing Ridge Heights
  - Sheet 8 of 8 -- Plan of Land in Newton, MA, Drain Plan and Profile.



David B. Cohen  
Mayor

**CITY OF NEWTON, MASSACHUSETTS**  
**FIRE DEPARTMENT HEADQUARTERS**

1164 Centre Street, Newton Center, MA 02459-1584  
Chief: (617) 796-2210 Fire Prevention: (617) 796-2230  
FAX: (617) 796-2211 EMERGENCY: 911



Joseph E. LaCroix  
Chief

February 22, 2008

Alderman George Mansfield  
Land Use Committee  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, Ma 02459

Re: 48 Cherry Place

Dear Mr. Mansfield,

The site plans for the rear sub lot development at 48 Cherry Place have been reviewed and approved by the Newton Fire Department, with the following conditions:

- The 14' driveway width is maintained at all times. Grass pavers have been added to the plans to give the fire department added maneuverability and approved.
- That no trees be added to the plans that would hinder fire department accessibility to the north side of the rear building.

We will of course be reviewing plans relative to construction and other Fire prevention code matters during the building permit process. If you have any questions, please do not hesitate to call me at 796-2210.

Sincerely,

---

Bruce A. Proia  
Assistant Chief of Operations

Cc: Jason Rosenberg, LLP  
Deputy Chief Thorne, Fire Prevention Division

ILANA DANCONA  
BOOK 1235 PAGE 163

#57  
12,363±S.F.

ROBERT M. & NORA M. DANIELS  
BOOK 23898 PAGE 077

#45  
12,364±S.F.

LOT FRONTAGE	60.11'	129.00 FEET
PAVEMENT		N/A
VEHICLE ACCESS		
SIDE SEPARATION		
MIN. TO LINE		
REAR SEPARATION		
MIN. TO LINE		

# ATTACHMENT E

MARIE B. & LEONA M. MALONE  
BOOK 14350 PAGE 272

#33  
13,428±S.F.

1 STORY  
LIVE IN GARAGE  
816±S.F.

DONALD J. & ANNA  
7 HOLLY ST PO BOX  
ONSET, MA 02558  
BOOK 10966 PAGE

#23  
13,428±S.F.

CHERRY PLACE  
(30' WIDE PUBLIC)

LOT "1A"  
10,267±S.F.

LOT "9A"  
11,982±S.F.

ANTONIO & PETRONILLA MERCURI  
C/O ANTONIO MERCURI  
BOOK 18773 PAGE 374

LOT "2A"  
12,120±S.F.

#30  
2 STORY  
2 FAMILY  
3,514±S.F.

#30  
10,780±S.F.

REYNALDO J. &  
ANA M. TRAMONTOZZI  
BOOK 22200 PAGE 142

GIOVANNINA TORCASIO  
C/O GIOVANNINA &  
SALVATORE TORCASIO  
BOOK 421.7

#17  
6,636±S.F.

C. CAPELLO  
PAGE 032

PAGE 560

20  
±S.F.

# Land Use Map

48 Cherry Place  
West Newton, MA

## Legend

- 48 Cherry Place
- Building Footprints
- Single Family Residential
- Multifamily Residential
- Commercial
- Industrial
- Mixed Use
- Vacant Land
- Golf Course
- Open Space
- Private Educational
- Nonprofit Organizations
- Public Housing
- Tax Exempt

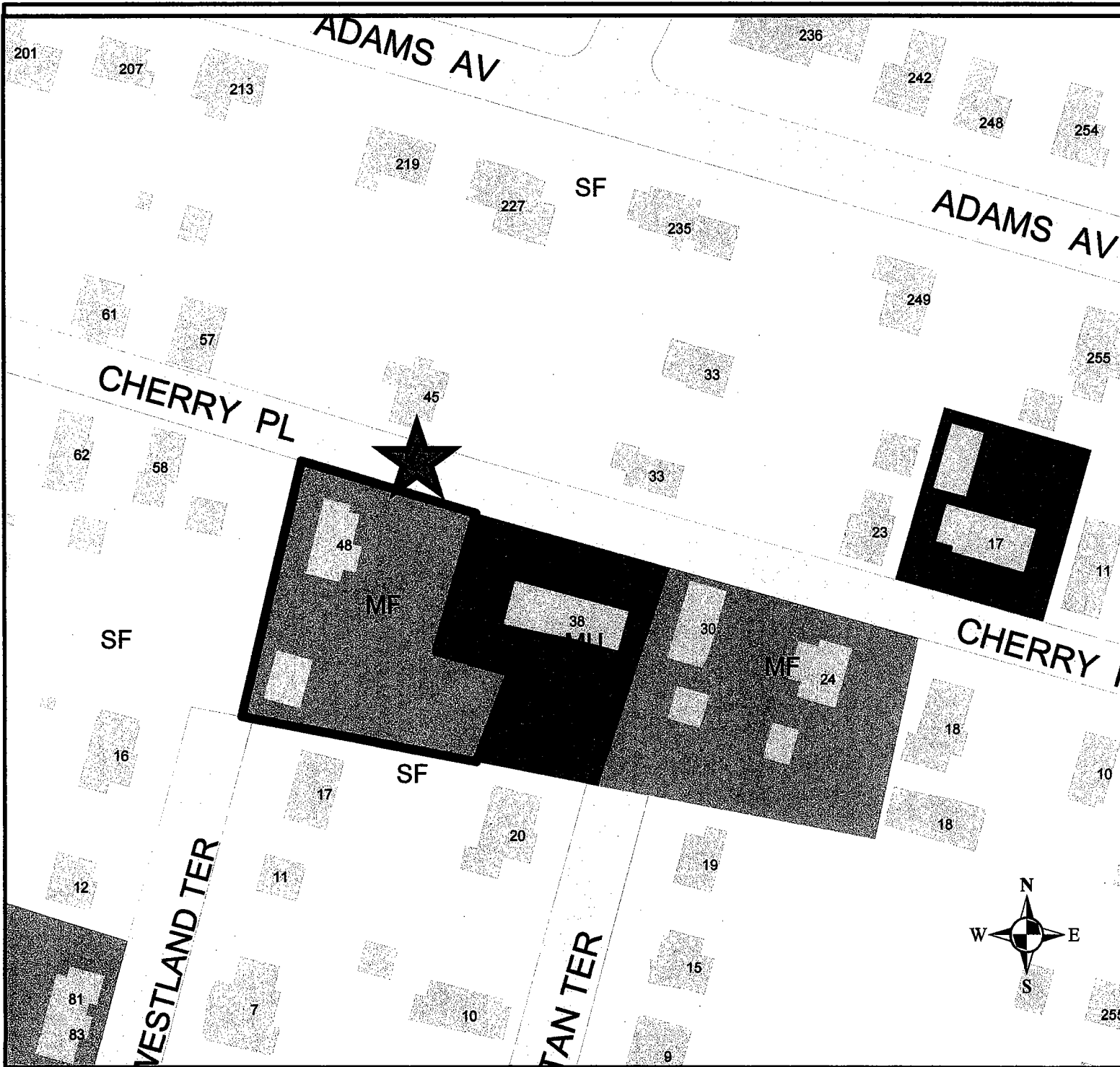


The information on this map is from the Geographic Information System (GIS). The City of West Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for his or her purpose. City departments will not approve applications based solely on this map.

0 50 100 Feet

MAP DATE: February 27, 200
















ATTACHMENT F



# Zoning Map

48 Cherry Place  
West Newton, MA

## Legend

-  48 Cherry Place
-  Building Footprints
-  Single Res. 1
-  Single Res. 2
-  Single Res. 3
-  Business 1
-  Business 2
-  Multi-Res. 1
-  Multi-Res. 2
-  Multi-Res. 3
-  Multi-Res. 4
-  Mixed Use 1
-  Mixed Use 2
-  OS/Rec.
-  Public Use



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0 50 100 Feet

MAP DATE: February 27, 2001

ATTACHMENT G



Existing house at front of lot

